

# Local Government Employee-Management Relations Board E-Newsletter

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Sandra Masters, Board Member

## Staff

Bruce K. Snyder, Commissioner

Marisu Romualdez Abellar,  
Board Secretary

## On the Horizon

The next meeting of the Board will be held on Tuesday, February 10<sup>th</sup> through Thursday, February 12<sup>th</sup>, in Las Vegas. The agenda for this meeting is being issued on February 2<sup>nd</sup>. At this meeting the Board will conduct a hearing on two consolidated cases: A1-046054, North Las Vegas Police Supervisors Association v. City of North Las Vegas, and A1-046080, City of North Las Vegas v. North Las Vegas Police Supervisors Association. The two complaints, one filed by each entity, cover a number of unfair labor practices allegedly committed by the other.

Also in February the Board is scheduled to deliberate and decide on a case heard in December, A1-045847 through A1-045864 inclusive, Deborah Boland et al. v. SEIU, Local 1107. This case involves 18 physicians who allege that their union breached its duty of fair representation. The hearing in December was restricted to the issue of liability. If the Board finds the employee organization liable, then there will be a second hearing on the issue of remedies.

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## Recent Decisions

\*Please note that these summaries are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. The Board issued one notable decision in January:

A1-046106, Michael Turner v. Clark County School District (Item 800): Mr. Turner was terminated by the school district over an off-duty driving incident. The incident occurred while Mr. Turner, a long-time school district employee, was on a probationary period for a promotional position. At the arbitration hearing contesting the termination, the arbitrator overturned the termination and reinstated Mr. Turner to the position he held prior to his promotion since he was on probation for the higher position at that time. Complainant then filed an unfair labor practice case with the EMRB.

In the EMRB matter Complainant asserted that the duty to bargain collectively in good faith includes the "resolution of any question arising under a negotiated agreement." NRS 288.033(3). However, Complainant further asserted that this duty to bargain extends to the positions the opposing party might take at an adversarial arbitration hearing, and in particular, the arguments that might be raised by opposing counsel in its closing argument. The school district filed a motion to dismiss, which was granted by the Board upon the conclusion of Complainant's case. The Board, in its decision, opined that the school district "merely advanced the positions that it viewed most favorable to it when making arguments before the arbitrator" and that doing so does not breach any duty to bargain in good faith. The Board went on to further state that the making of such arguments is exactly what is contemplated in an arbitration proceeding.

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## Recent Decisions (cont'd)

A1-046127, Laws, Quick and Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department (No Item Number). Complainants had filed a public records request with LVMPD pursuant to the Public Records Act. LVMPD withheld certain of the documents as privileged and retracted some of the information on documents that it did provide pursuant to that act. Thereupon the Complainants, who have an active case with the EMRB, filed a motion with the EMRB, requesting that the Board conduct an in-camera inspection of the withheld and/or retracted documents to determine if they, indeed, qualify for a privilege. The Board held that it had no authority to administer the Public Records Act or to rule upon whether documents were properly excluded from a public records request. As a side note, the Public Records Act does provide the means for a party to file an action in District Court to attempt to obtain the documents it believes may have been improperly withheld.

A1-045929, Timothy Frabbiele v. City of North Las Vegas (Item 680J). Last September the Board ruled in favor of Mr. Frabbiele, including the awarding of fees and costs. Subsequent to that decision, Mr. Frabbiele submitted a memorandum detailing the fees and costs sought. The City filed its opposition. In this decision the Board awarded Mr. Frabbiele \$66,962.50 in attorney fees and \$10,400.00 in costs.

## Did you know

**our office will be closed on Tuesday, February 3<sup>rd</sup> as that day we will be counting the ballots in the election between Teamsters, Local 14 and the Education Support Employees Association (see article below)? However, if you need to personally file any pleadings that day there will be a sign on our office door directing you to another office on our floor that will accept and file-stamp your documents.**

## Representation Election News

By far and away the oldest outstanding case before the EMRB dates all the way back to 2002! In that year the International Brotherhood of Teamsters, Local 14 (Teamsters), filed a petition seeking to represent the support employees who work for the Clark County School District. This led to a counterclaim filed by the employee organization currently representing those employees, the Education Support Employees Association (ESEA).

Over the last 13 years the case has three times ended up before the Nevada Supreme Court. There also was an initial election held in 2006, where the ESEA, Teamsters, and a No Union option were on the ballot. In that 2006 election, none of the three options received a majority of the votes from the pool of eligible voters. The No Union option came in last. The Board thereupon ordered a runoff election.

In December 2013 the Nevada Supreme Court remanded the case back to the EMRB to conduct a runoff election. After obtaining the necessary funds to do so, the EMRB Board ordered a runoff election in October 2014.

On January 5, 2015 ballot kits were mailed to the homes of 11,258 eligible voters, who have until the morning of February 3, 2015 to have their ballot delivered to the post office box rented for the return of the ballots. That morning the EMRB will collect the ballots from the post office and then proceed to a ballroom rented at the Riviera Hotel and Casino, where more than 70 volunteers will gather to open the ballots and tally the vote. They will work in groups of four spread across sixteen tables. Alternates will periodically substitute to give the regulars needed breaks.

It is expected that on February 10<sup>th</sup> the Board will then certify the results of the election. In next month's column we will let you know the results of the election.

## In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

On March 10-12 the Board will hear two cases: A1-046111, Justin Simo v. Henderson Police Officers Association, and A1-046123, Nye County Law Enforcement Association v. Nye County.

On April 7-9 the Board will hear A1-046116, David O'Leary v. Las Vegas Metropolitan Police Department. (subject to Board approval in February).

Then on May 5-6 the Board will meet in Elko and hear A1-046068, Elko County Employees Association v. Elko County.

The following cases are waiting for the Board to deliberate and decide on the status of the case, including, but not limited to, dismissal of the case or the granting of a hearing on the complaint. Please note that the order listed below is not necessarily the order in which the cases will be heard:

### In Las Vegas:

A1-046102, North Las Vegas Police Supervisors Association v. City of North Las Vegas

A1-046113, Education Support Employees Association and Police Officers Association of the Clark County School District v. Clark County School District

A1-046127, Laws, Quick and Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association

A1-046130, SEIU, Local 1107 v. Clark County

A1-046133, SEIU, Local 1107 v. Southern Nevada Regional Housing Authority

## Coming February 17<sup>th</sup>... Electronic Filing and Other Changes

On January 13<sup>th</sup> the Board approved additional changes to the agency's regulations. Because they are temporary regulations they will not take effect for 35 days, which is February 17<sup>th</sup>. These changes do four things: (1) they allow for the electronic filing of documents; (2) for those wishing to still manually file documents, we only will require that the original be filed; (3) they allow the Commissioner to grant extensions of time to file certain documents in lieu of waiting for Board approval; and (4) they clarify the annual reporting requirements.

Any person wishing to electronically file documents after February 17<sup>th</sup> will first need to register with the EMRB. This precaution is being taken to ensure that any documents received are from whom they purport to be. Since 99% of all documents are filed by attorneys or their staff we will be sending a registration packet to the attorneys on our mailing list on or about February 6<sup>th</sup>. If you are not an attorney but would still like to register with us, please contact us at the e-mail address below and we will be sure to also send you a registration packet.

Independently of this, we recently e-mailed our annual report to the hundreds of individuals on our mailing list. If you missed your copy please contact us and we would be glad to e-mail you another copy.

### **"About the EMRB"**

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.